



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

4949-A Cox Road, Glen Allen, Virginia 23060

(804) 527-5020 Fax (804) 527-5106

www.deq.virginia.gov

L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Gerard Seeley, Jr.
Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION SPECIAL ORDER BY CONSENT ISSUED TO TOWN OF SURRY Permit No. VA0061646

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.15(8a) and (8d), between the State Water Control Board and the Town of Surry, for the purpose of resolving certain violations of environmental law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Special Order.
6. "Town" means the Town of Surry, located in Surry County Virginia.
7. "Facility" means the Town's wastewater treatment plant located at 11463 Rolfe Highway, Surry, Virginia.

8. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. "Permit" means VPDES Permit No. VA0061646, which became effective January 17, 2006, and expires January 16, 2011.
10. "I&I" means inflow and infiltration.
11. "RBC" means rotating biological contactor.
12. "TKN" means total kjeldahl nitrogen a combination of organically bound nitrogen and ammonia in wastewater.
13. "DMR" means discharge monitoring report.
14. "CBOD" means carbonaceous biochemical oxygen demand.

SECTION C: Findings of Fact and Conclusions of Law

1. The Town owns and operates a wastewater treatment Facility in Surry County, Virginia. This Facility is the subject of VPDES Permit No. VA0061646, which allows the Town to discharge treated wastewater into an unnamed tributary of Dark Swamp in strict compliance with terms, limitations and requirements outlined in the Permit.
2. On February 18, 2005, the Department issued a Notice of Violation (NOV) to the Town for Permit effluent violations of copper, failing to submit an application for continued coverage under the Permit, and plans for addressing 95% flow capacity. In addition the Town was cited for failure to submit a corrective action plan and Standard Operating Procedures for reporting required by a Consent Order issued June 21, 2004.
3. On January 24, 2005, the Town submitted an incomplete Permit application. The Permit application was deemed complete on November 17, 2005.
4. The Department discussed the NOV with the Town on March 18, 2005. The Town was anticipating that the Department's review of new data submitted as part of the Permit reapplication would allow the Town less stringent permit limitations for copper. In addition the Town began working with a contractor on a solution to the copper issue. The Town also began a sewer system evaluation to determine if removal of inflow and infiltration from the wastewater collection system would relieve the Town of having to raise capitol for a Facility expansion.
5. On May 22, 2006, the Department issued a warning letter to the Town citing them for failure to submit a DMR for the December 2005 monitoring period, a late

DMR submittal for the January 2006 monitoring period, permit effluent violations of copper and TKN in January and February of 2006, a permit effluent violation of TKN in March of 2006, and for failure to submit reports explaining the permit effluent violations above.

6. On July 10, 2006, the Department issued a warning letter to the Town citing it for permit effluent violations of CBOD and TKN in April of 2006 and a permit effluent violation of copper in May of 2006.
7. On January 17, 2006, a Permit was issued to the Town that required them to meet a more stringent limit for copper and added additional limitations for ammonia and zinc. The Permit contains a schedule for these three parameters with final compliance required by January 17, 2010.
8. On October 6, 2006, the Department met with the Town to discuss the compliance issues at the Town's Facility. The Town is planning to purchase smoke testing equipment to continue investigating the sewer system for inflow and infiltration problems. The Town has identified and scheduled needed repairs at several manholes and lines. The Town stated that the TKN and CBOD violations during the January through April 2006 monitoring periods were due to a breakdown in both rotating biological contactors (RBCs) at the Facility. One RBC was down for repair when the second unit malfunctioned. The Facility's biomass required several months time to repopulate the RBCs. In response, the Town increased their supply of spare parts so the RBCs can be repaired quickly on site.
9. After considering the options required for permit compliance, the Town decided on March 15, 2007, that it would eliminate its discharge by connecting onto Surry County's regional sewer system.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d), orders the Town, and the Town agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders the Town, and the Town voluntarily agrees, to pay a civil charge of \$1,500 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. The payment shall note that it is being made pursuant to this Order and shall note the Federal Identification Number for the Town. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of the Town, for good cause shown by the Town, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to the Town by DEQ on February 18, 2005, and the Warning Letters dated May 22, 2006, and July 10, 2006. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, the Town admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. The Town consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. The Town declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by the Town to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. The Town shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake,

flood, other acts of God, war, strike, or such other occurrence. The Town shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The Town shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

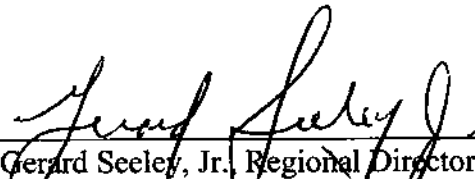
Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the Town intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and the Town. Notwithstanding the foregoing, the Town agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. the Town petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - b. The Director or Board terminates the Order in his or its sole discretion upon 30 days notice to the Town.

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve the Town from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. This Order supersedes and cancels all prior Orders issued by the Board.
13. By its signature below, the Town voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of June 29, 2007.


Gerard Seeley, Jr., Regional Director
Department of Environmental Quality

The Town voluntarily agrees to the issuance of this Order.

By: William R. Sutherland, MAYOR

Date: APRIL 12, 2007

Commonwealth of Virginia

~~City~~/County of Surry

The foregoing document was signed and acknowledged before me this 12th day of

April, 2007, by William R. Sutherland, who is
(name)

Mayor on behalf of the Town.
(title)


Molly L. Richmond
Notary Public

My commission expires: 3-31-08

APPENDIX A

The Town shall:

1. On or before September 1, 2007, submit to the Department for review and approval a plan for the construction of a connection to Surry County's regional sewer system and the closure of the Town's Facility. The plan shall include a schedule of implementation that when approved by the Department will become a part of this Order.
2. Operate the Facility in a manner that ensures that it produces the best quality effluent of which it is capable during the implementation of the corrective action required by this Order.

Pursuant to this Order communications regarding this Order and its requirements, other than the civil charge payment described in Section D of the Order, shall be addressed as follows:

Frank Lupini
Department of Environmental Quality
Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060

The Town shall confirm, in writing, completion of the Order requirements to the above address **within five (5) days of completion.**